

1-1 By: Smithee (Senate Sponsor - Carona) H.B. No. 3
1-2 (In the Senate - Received from the House June 17, 2011;
1-3 June 17, 2011, read first time and referred to Committee on
1-4 Business and Commerce; June 22, 2011, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 8,
1-6 Nays 1; June 22, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3 By: Carona

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the operation of the Texas Windstorm Insurance
1-11 Association and to the resolution of certain disputes concerning
1-12 claims made to that association; providing penalties.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 83.002, Insurance Code, is amended by
1-15 adding Subsection (c) to read as follows:

1-16 (c) This chapter also applies to:

1-17 (1) a person appointed as a qualified inspector under
1-18 Section 2210.254 or 2210.255; and

1-19 (2) a person acting as a qualified inspector under
1-20 Section 2210.254 or 2210.255 without being appointed as a qualified
1-21 inspector under either of those sections.

1-22 SECTION 2. Section 542.052, Insurance Code, is amended to
1-23 read as follows:

1-24 Sec. 542.052. APPLICABILITY OF SUBCHAPTER. (a) This
1-25 subchapter applies to any insurer authorized to engage in business
1-26 as an insurance company or to provide insurance in this state,
1-27 including:

1-28 (1) a stock life, health, or accident insurance
1-29 company;

1-30 (2) a mutual life, health, or accident insurance
1-31 company;

1-32 (3) a stock fire or casualty insurance company;

1-33 (4) a mutual fire or casualty insurance company;

1-34 (5) a Mexican casualty insurance company;

1-35 (6) a Lloyd's plan;

1-36 (7) a reciprocal or interinsurance exchange;

1-37 (8) a fraternal benefit society;

1-38 (9) a stipulated premium company;

1-39 (10) a nonprofit legal services corporation;

1-40 (11) a statewide mutual assessment company;

1-41 (12) a local mutual aid association;

1-42 (13) a local mutual burial association;

1-43 (14) an association exempt under Section 887.102;

1-44 (15) a nonprofit hospital, medical, or dental service
1-45 corporation, including a corporation subject to Chapter 842;

1-46 (16) a county mutual insurance company;

1-47 (17) a farm mutual insurance company;

1-48 (18) a risk retention group;

1-49 (19) a purchasing group;

1-50 (20) an eligible surplus lines insurer; and

1-51 (21) except as provided by Section 542.053(b), a
1-52 guaranty association operating under Chapter 462 or 463.

1-53 (b) This subchapter does not apply to the Texas Windstorm
1-54 Insurance Association.

1-55 SECTION 3. Subchapter A, Chapter 2210, Insurance Code, is
1-56 amended by adding Sections 2210.0081 and 2210.010 to read as
1-57 follows:

1-58 Sec. 2210.0081. CERTAIN ACTIONS BROUGHT AGAINST
1-59 ASSOCIATION BY COMMISSIONER. In an action brought by the
1-60 commissioner against the association under Chapter 441:

1-61 (1) the association's inability to satisfy obligations
1-62 under Subchapter M related to the issuance of public securities
1-63 under this chapter constitutes a condition that makes the

2-1 association's continuation in business hazardous to the public or
 2-2 to the association's policyholders for the purposes of Section
 2-3 441.052;

2-4 (2) the time for the association to comply with the
 2-5 requirements of supervision or for the conservator to complete the
 2-6 conservator's duties, as applicable, is limited to three years from
 2-7 the date the commissioner commences the action against the
 2-8 association; and

2-9 (3) unless the commissioner takes further action
 2-10 against the association under Chapter 441, as a condition of
 2-11 release from supervision, the association must demonstrate to the
 2-12 satisfaction of the commissioner that the association is able to
 2-13 satisfy obligations under Subchapter M related to the issuance of
 2-14 public securities under this chapter.

2-15 Sec. 2210.010. CERTAIN CONDUCT IN DISPUTE RESOLUTION
 2-16 PROHIBITED. (a) For purposes of this section, "presiding officer"
 2-17 includes a judge, arbitrator, appraiser, or panel member.

2-18 (b) If a person insured under this chapter is assigned to
 2-19 act as presiding officer to preside over or resolve a dispute
 2-20 involving the association and another person insured under this
 2-21 chapter, the presiding officer shall, not later than the seventh
 2-22 day after the date of assignment, give written notice to the
 2-23 association and to each other party to the dispute, or the
 2-24 association's or other party's attorney, that the presiding officer
 2-25 is insured under this chapter.

2-26 (c) In a proceeding with respect to which the commissioner
 2-27 has authority to designate the presiding officer, the association
 2-28 or other party that receives notice under Subsection (b) may file
 2-29 with the commissioner a written objection to the assignment of the
 2-30 presiding officer to the dispute. The written objection must
 2-31 contain the factual basis on which the association or other party
 2-32 objects to the assignment.

2-33 (d) The commissioner shall assign a different presiding
 2-34 officer to the dispute if, after reviewing the objection filed
 2-35 under Subsection (c), the commissioner determines that the
 2-36 presiding officer originally assigned to the dispute has a direct
 2-37 financial or personal interest in the outcome of the dispute.

2-38 (e) The association or another party must file an objection
 2-39 under Subsection (c) not later than the earlier of:

2-40 (1) the seventh day after the date the association or
 2-41 other party receives actual notice that the presiding officer is
 2-42 insured under this chapter; or

2-43 (2) the seventh day before the date of the first
 2-44 proceeding concerning the dispute.

2-45 (f) The commissioner may, on a showing of good cause, extend
 2-46 the deadline to file an objection under Subsection (e).

2-47 SECTION 4. Section 2210.054(a), Insurance Code, is amended
 2-48 to read as follows:

2-49 (a) The association shall file annually with the department
 2-50 and the state auditor's office a statement covering periods
 2-51 designated by the department that summarizes the transactions,
 2-52 conditions, operations, and affairs of the association during the
 2-53 preceding year.

2-54 SECTION 5. Section 2210.056(c), Insurance Code, is amended
 2-55 to read as follows:

2-56 (c) On dissolution of the association, all assets of the
 2-57 association, other than assets pledged for the repayment of public
 2-58 securities issued under this chapter, revert to this state.

2-59 SECTION 6. Subchapter B, Chapter 2210, Insurance Code, is
 2-60 amended by adding Sections 2210.058, 2210.059, and 2210.061 to read
 2-61 as follows:

2-62 Sec. 2210.058. AUDIT OF ASSOCIATION. (a) The association
 2-63 is subject to audit by the state auditor and shall pay the costs
 2-64 incurred by the state auditor in performing an audit under this
 2-65 section.

2-66 (b) The association shall pay the costs described by
 2-67 Subsection (a) promptly after receipt of a statement from the state
 2-68 auditor's office regarding the amount of those costs.

2-69 Sec. 2210.059. CLAIMS PRACTICES AUDIT. (a) If the

3-1 commissioner determines that 1,000 or more claims have been filed
 3-2 under association policies the bases of which are damage to insured
 3-3 property caused by the same storm, the department shall conduct a
 3-4 random audit of the claim files of those claims to:

3-5 (1) determine whether the association is adequately
 3-6 and properly documenting claims decisions in each claim file; and

3-7 (2) ensure that each claim is being handled
 3-8 appropriately, including being handled in accordance with the terms
 3-9 of the policy under which the claim is filed.

3-10 (b) The department shall conduct an audit required under
 3-11 this section as soon as possible after the filing of the 1,000th
 3-12 claim described by Subsection (a) to ensure the quality of the
 3-13 process with which the association is handling claims described by
 3-14 Subsection (a).

3-15 (c) If, following an audit conducted under this section, the
 3-16 commissioner determines that the association is not adequately and
 3-17 properly documenting claims decisions or that claims described by
 3-18 Subsection (a) are not otherwise being handled appropriately, the
 3-19 commissioner shall:

3-20 (1) notify the board of directors of that
 3-21 determination; and

3-22 (2) identify the manner in which the association
 3-23 should correct any deficiencies identified by the commissioner.

3-24 Sec. 2210.061. CONTRACTORS AND MANAGERIAL EMPLOYEES:
 3-25 COMPENSATION AND BONUSES. The association shall post on the
 3-26 association's Internet website any compensation, monetary or
 3-27 otherwise, and any bonus that, when aggregated, exceed \$100,000 in
 3-28 a 12-month period and that are paid or given by the association to:

3-29 (1) a vendor or independent contractor with whom the
 3-30 association has a contract; and

3-31 (2) an association employee who serves in a managerial
 3-32 capacity.

3-33 SECTION 7. Section 2210.071, Insurance Code, is amended by
 3-34 adding Subsection (c) to read as follows:

3-35 (c) Losses not paid under Subsection (b) shall be paid from
 3-36 the proceeds from public securities issued in accordance with this
 3-37 subchapter and Subchapter M and, notwithstanding Subsection (a),
 3-38 may be paid from the proceeds of public securities issued under
 3-39 Section 2210.072(a) before an occurrence or series of occurrences
 3-40 that results in insured losses.

3-41 SECTION 8. Section 2210.072, Insurance Code, is amended by
 3-42 amending Subsections (a) and (b) and adding Subsections (a-1) and
 3-43 (a-2) to read as follows:

3-44 (a) Losses not paid under Section 2210.071 shall be paid as
 3-45 provided by this section from the proceeds from Class 1 public
 3-46 securities authorized to be issued in accordance with Subchapter M.
 3-47 On request of the association and approval by the commissioner, and
 3-48 subject to Subsection (a-2), Class 1 public securities may be
 3-49 issued under this section at any time during a calendar year,
 3-50 including before, on, or after an occurrence or series of
 3-51 occurrences that results in insured losses, if the association
 3-52 determines that insured losses in the calendar year have exceeded,
 3-53 or are likely to exceed, the amount available for the payment of
 3-54 losses under Section 2210.071(b).

3-55 (a-1) The commissioner by rule shall, subject to Subsection
 3-56 (a-2), establish, for each calendar year, the maximum principal
 3-57 amount in which public securities may be issued under this section
 3-58 before an occurrence or series of occurrences that results in
 3-59 insured losses. The commissioner shall consult the Texas Public
 3-60 Finance Authority when adopting rules under this subsection.

3-61 (a-2) ~~[on or after the date of any occurrence or series of~~
 3-62 ~~occurrences that results in insured losses.]~~ Public securities
 3-63 issued under this section must be repaid within a period not to
 3-64 exceed 14 ~~[10]~~ years, and may be repaid sooner if the board of
 3-65 directors elects to do so and the commissioner approves. The amount
 3-66 of outstanding public securities issued under this section before
 3-67 an occurrence or series of occurrences that results in insured
 3-68 losses may not, in the aggregate, exceed \$1 billion at any one time,
 3-69 regardless of the calendar year or years in which the outstanding

4-1 public securities were issued.

4-2 (b) Public securities described by Subsection (a):

4-3 (1) shall be issued as necessary in a principal amount
4-4 not to exceed \$1 billion in the aggregate whether for a single
4-5 occurrence or a series of occurrences that takes place in a calendar
4-6 [per] year and results in insured losses; and

4-7 (2) may be issued, in one or more issuances or
4-8 tranches, during the calendar year in which the occurrence or
4-9 series of occurrences occurs or, if the public securities cannot
4-10 reasonably be issued in the calendar year in which the occurrence or
4-11 series of occurrences takes place, during the following calendar
4-12 year.

4-13 SECTION 9. Section 2210.073, Insurance Code, is amended by
4-14 amending Subsection (b) and adding Subsection (c) to read as
4-15 follows:

4-16 (b) Public securities described by Subsection (a):

4-17 (1) may be issued as necessary in a principal amount
4-18 not to exceed \$1 billion in the aggregate whether for a single
4-19 occurrence or a series of occurrences that takes place in a calendar
4-20 [per] year and results in insured losses; and

4-21 (2) may be issued, in one or more issuances or
4-22 tranches, during the calendar year in which the occurrence or
4-23 series of occurrences occurs or, if the public securities cannot
4-24 reasonably be issued in the calendar year in which the occurrence or
4-25 series of occurrences takes place, during the following calendar
4-26 year.

4-27 (c) If the losses are paid with public securities described
4-28 by this section, the public securities shall be repaid in the manner
4-29 prescribed by Subchapter M.

4-30 SECTION 10. Section 2210.074, Insurance Code, is amended by
4-31 amending Subsection (b) and adding Subsection (c) to read as
4-32 follows:

4-33 (b) Public securities described by Subsection (a):

4-34 (1) may be issued as necessary in a principal amount
4-35 not to exceed \$500 million in the aggregate whether for a single
4-36 occurrence or a series of occurrences that takes place in a calendar
4-37 [per] year and results in insured losses; and

4-38 (2) may be issued, in one or more issuances or
4-39 tranches, during the calendar year in which the occurrence or
4-40 series of occurrences occurs or, if the public securities cannot
4-41 reasonably be issued in the calendar year in which the occurrence or
4-42 series of occurrences takes place, during the following calendar
4-43 year.

4-44 (c) If the losses are paid with public securities described
4-45 by this section, the public securities shall be repaid in the manner
4-46 prescribed by Subchapter M through member assessments as provided
4-47 by this section. The association shall notify each member of the
4-48 association of the amount of the member's assessment under this
4-49 section. The proportion of the losses allocable to each insurer
4-50 under this section shall be determined in the manner used to
4-51 determine each insurer's participation in the association for the
4-52 year under Section 2210.052. A member of the association may not
4-53 recoup an assessment paid under this subsection through a premium
4-54 surcharge or tax credit.

4-55 SECTION 11. Section 2210.075, Insurance Code, is amended to
4-56 read as follows:

4-57 Sec. 2210.075. REINSURANCE. (a) Before any occurrence or
4-58 series of occurrences, an insurer may elect to purchase reinsurance
4-59 to cover an assessment for which the insurer would otherwise be
4-60 liable under Section 2210.074(c) [~~2210.074(b)~~].

4-61 (b) An insurer must notify the board of directors, in the
4-62 manner prescribed by the association whether the insurer will be
4-63 purchasing reinsurance. If the insurer does not elect to purchase
4-64 reinsurance under this section, the insurer remains liable for any
4-65 assessment imposed under Section 2210.074(c) [~~2210.074(b)~~].

4-66 SECTION 12. Section 2210.102, Insurance Code, is amended by
4-67 adding Subsection (i) to read as follows:

4-68 (i) Notwithstanding Subsection (f), for a vacancy occurring
4-69 in a position under Subsection (b), the commissioner may appoint,

5-1 for the lesser of 120 days or until the vacancy is filled, a person
 5-2 who has demonstrated knowledge in insurance principles. This
 5-3 subsection does not apply to a vacancy due to the expiration of a
 5-4 term occurring under Section 2210.103. This subsection expires
 5-5 December 31, 2012, and any appointment in effect on that date is
 5-6 continued until the expiration of the term of the appointment.

5-7 SECTION 13. Section 2210.105, Insurance Code, is amended by
 5-8 amending Subsections (a) and (b) and adding Subsections (b-1), (e),
 5-9 and (f) to read as follows:

5-10 (a) Except for an emergency meeting, the association shall:
 5-11 (1) notify the department not later than the 11th day
 5-12 before the date of a meeting of the board of directors or of the
 5-13 members of the association; and

5-14 (2) not later than the seventh day before the date of a
 5-15 meeting of the board of directors, post notice of the meeting on the
 5-16 association's Internet website and the department's Internet
 5-17 website.

5-18 (b) Except for a closed meeting authorized by Subchapter D,
 5-19 Chapter 551, Government Code, a meeting of the board of directors or
 5-20 of the members of the association is open to[+]

5-21 [~~(1) the commissioner or the commissioner's designated~~
 5-22 ~~representative, and~~

5-23 [~~(2)~~] the public.

5-24 (b-1) The commissioner or the commissioner's designated
 5-25 representative may attend a meeting of the board of directors or the
 5-26 members of the association, including a closed meeting authorized
 5-27 by Subchapter D, Chapter 551, Government Code, except for those
 5-28 portions of a closed meeting that involve the rendition of legal
 5-29 advice to the board concerning a regulatory matter or that would
 5-30 constitute an ex parte communication with the commissioner.

5-31 (e) The association shall:

5-32 (1) broadcast live on the association's Internet
 5-33 website all meetings of the board of directors, other than closed
 5-34 meetings; and

5-35 (2) archive the recording of a meeting until the
 5-36 second anniversary of the meeting.

5-37 (f) The presence of the commissioner or the commissioner's
 5-38 designated representative at a closed meeting does not waive or
 5-39 impair any privilege, including attorney-client privilege, that
 5-40 exists in statute or at common law.

5-41 SECTION 14. Section 2210.107, Insurance Code, is amended to
 5-42 read as follows:

5-43 Sec. 2210.107. PRIMARY BOARD OBJECTIVES; REPORT. (a) The
 5-44 primary objectives of the board of directors are to ensure that the
 5-45 association:

5-46 (1) operates in accordance with this chapter and
 5-47 commissioner rules;

5-48 (2) complies with sound insurance principles; and

5-49 (3) meets all standards imposed under this chapter,
 5-50 including that claims against the association are promptly and
 5-51 fairly resolved.

5-52 (b) Every two months, the general manager of the association
 5-53 shall submit to the board a report evaluating the extent to which
 5-54 the association met the objectives described by Subsection (a) in
 5-55 the two-month period immediately preceding the date of the report.

5-56 (c) Not later than June 1 of each year, the association
 5-57 shall submit to the commissioner, the legislative oversight board
 5-58 established under Subchapter N, the governor, the lieutenant
 5-59 governor, and the speaker of the house of representatives a report
 5-60 evaluating the extent to which the board met the objectives
 5-61 described by Subsection (a) in the 12-month period immediately
 5-62 preceding the date of the report.

5-63 SECTION 15. Subchapter C, Chapter 2210, Insurance Code, is
 5-64 amended by adding Section 2210.108 to read as follows:

5-65 Sec. 2210.108. OPEN MEETINGS AND OPEN RECORDS. (a) Except
 5-66 as specifically provided by this chapter or another law, the
 5-67 association is subject to Chapters 551 and 552, Government Code.

5-68 (b) Except as provided by Subsection (c), the following
 5-69 information is exempt from disclosure under Chapter 552, Government

6-1 Code:

6-2 (1) a name, address, telephone number, tax
 6-3 identification number, social security number, or policy or claim
 6-4 number of a person insured under this chapter;

6-5 (2) policy information related to:

6-6 (A) insured amounts; or

6-7 (B) insured items that identify specific
 6-8 property or could reasonably be used to identify specific property;

6-9 (3) claim file information, including photographs and
 6-10 descriptive reports, that identifies specific property or could
 6-11 reasonably be used to identify specific property; and

6-12 (4) other information that could be considered
 6-13 personally identifiable financial information.

6-14 (c) This section may not be construed to limit a request:

6-15 (1) by a person insured under this chapter, or the
 6-16 person's counsel, for information contained in that person's
 6-17 association policy or for claim information related to a loss
 6-18 claimed under that policy;

6-19 (2) by the commissioner or the department for
 6-20 information for a purpose authorized under this code, including for
 6-21 the purposes of developing and implementing incentive programs
 6-22 under Sections 2210.009(b) and 2210.053(b);

6-23 (3) for aggregate policy, coverage, and claims
 6-24 information; or

6-25 (4) for discovery in a judicial or administrative
 6-26 proceeding.

6-27 SECTION 16. Section 2210.202, Insurance Code, is amended to
 6-28 read as follows:

6-29 Sec. 2210.202. APPLICATION FOR COVERAGE. (a) A person who
 6-30 has an insurable interest in insurable property may apply to the
 6-31 association for insurance coverage provided under the plan of
 6-32 operation and an inspection of the property, subject to any rules
 6-33 established by the board of directors and approved by the
 6-34 commissioner. The association shall make insurance available to
 6-35 each applicant in the catastrophe area whose property is insurable
 6-36 property but who, after diligent efforts, is unable to obtain
 6-37 property insurance through the voluntary market, as evidenced by
 6-38 one declination from an insurer authorized to engage in the
 6-39 business of, and writing, property insurance providing windstorm
 6-40 and hail coverage in the first tier coastal counties. For purposes
 6-41 of this section, "declination" has the meaning assigned by the plan
 6-42 of operation and shall include a refusal to offer coverage for the
 6-43 perils of windstorm and hail and the inability to obtain
 6-44 substantially equivalent insurance coverage for the perils of
 6-45 windstorm and hail. Notwithstanding Section 2210.203(c), evidence
 6-46 of one declination every three calendar years is also required with
 6-47 an application for renewal of an association policy.

6-48 (b) A property and casualty agent must submit an application
 6-49 for initial [the] insurance coverage on behalf of the applicant on
 6-50 forms prescribed by the association. The association shall develop
 6-51 a simplified renewal process that allows for the acceptance of an
 6-52 application for renewal coverage, and payment of premiums, from a
 6-53 property and casualty agent or a person insured under this chapter.
 6-54 An [The] application for initial or renewal coverage must contain:

6-55 (1) a statement as to whether the applicant has
 6-56 submitted or will submit the premium in full from personal funds or,
 6-57 if not, to whom a balance is or will be due; and

6-58 (2) [~~Each application for initial or renewal~~
 6-59 ~~coverage must also contain]~~ a statement that the agent acting on
 6-60 behalf of the applicant possesses proof of the declination
 6-61 described by Subsection (a) and proof of flood insurance coverage
 6-62 or unavailability of that coverage as described by Section
 6-63 2210.203(a-1).

6-64 SECTION 17. Section 2210.203, Insurance Code, is amended by
 6-65 amending Subsections (a-1) and (c) and adding Subsections (a-2) and
 6-66 (a-3) to read as follows:

6-67 (a-1) [~~This subsection applies only to a structure~~
 6-68 ~~constructed, altered, remodeled, or enlarged on or after September~~
 6-69 ~~1, 2009, and only for insurable property located in areas~~

7-1 ~~designated by the commissioner.]~~ Notwithstanding Subsection (a),
 7-2 if all or any part of the property to be insured [~~which this~~
 7-3 ~~subsection applies~~] is located in Zone V or another similar zone
 7-4 with an additional hazard associated with storm waves, as defined
 7-5 by the National Flood Insurance Program, or is a residential
 7-6 structure located in an area described by Section 2210.004(g)(2),
 7-7 [~~and if flood insurance under that federal program is available,~~]
 7-8 the association may not issue an insurance policy for initial or
 7-9 renewal coverage unless evidence is submitted to the association
 7-10 that the property to be covered under the policy is also covered by
 7-11 a flood insurance policy that has a deductible or self-insurance
 7-12 amount comparable to the association policy to be issued and that is
 7-13 issued under the National Flood Insurance Program or by an insurer
 7-14 in an aggregate amount that is:

7-15 (1) equal to or greater than the amount of coverage
 7-16 under the policy to be issued by the association; or

7-17 (2) equal to the maximum amount obtainable through the
 7-18 National Flood Insurance Program or an insurer.

7-19 (a-2) Subsection (a-1) does not apply to property for which
 7-20 flood insurance is not available under the National Flood Insurance
 7-21 Program [~~is submitted to the association~~].

7-22 (a-3) An agent offering or selling a Texas windstorm and
 7-23 hail insurance policy [~~in any area designated by the commissioner~~
 7-24 ~~under this subsection~~] shall offer flood insurance coverage
 7-25 required under Subsection (a-1) to a [~~the~~] prospective insured, if
 7-26 that coverage is available.

7-27 (c) A policy is automatically [~~may be~~] renewed annually [~~on~~
 7-28 ~~application for renewal~~] as long as the property continues to be
 7-29 insurable property.

7-30 SECTION 18. Subchapter E, Chapter 2210, Insurance Code, is
 7-31 amended by adding Sections 2210.205, 2210.210, and 2210.211 to read
 7-32 as follows:

7-33 Sec. 2210.205. REQUIRED POLICY PROVISIONS: DEADLINE FOR
 7-34 FILING CLAIM; NOTICE CONCERNING DISPUTE RESOLUTION. (a) A
 7-35 windstorm and hail insurance policy issued by the association must:

7-36 (1) require an insured to file a claim under the policy
 7-37 not later than the first anniversary of the date on which the loss
 7-38 that is the basis of the claim occurs; and

7-39 (2) contain a conspicuous notice concerning the
 7-40 resolution of disputes under the policy, including:

7-41 (A) describing the appraisal process under
 7-42 Section 2210.576;

7-43 (B) describing the alternative dispute
 7-44 resolution process under Section 2210.577; and

7-45 (C) stating that compliance with the provisions
 7-46 described by Paragraphs (A) and (B) is a condition precedent to
 7-47 seeking administrative relief under Subchapter L-1.

7-48 (b) The association shall extend the one-year period
 7-49 described by Subsection (a)(1) for an additional period not to
 7-50 exceed 120 days if, before the 120th day after the expiration of the
 7-51 one-year period, the insured shows good cause in a written request
 7-52 to the association.

7-53 Sec. 2210.210. COVERAGE OF CERTAIN STRUCTURES PROHIBITED.
 7-54 The association may not issue coverage for a wind turbine
 7-55 regardless of whether the turbine could otherwise be considered
 7-56 insurable property under this chapter.

7-57 Sec. 2210.211. PROOF OF OTHER COVERAGE REQUIRED FOR
 7-58 SETTLEMENT OF CERTAIN CLAIMS; CLAIMS PAYMENT LIMITED. (a) This
 7-59 section applies only to a claim filed under an association policy
 7-60 the issuance or renewal of which, under Section 2210.203(a-1),
 7-61 requires evidence of coverage by a flood insurance policy.

7-62 (b) The association may not pay or settle a portion of a
 7-63 claim filed under a policy described by Subsection (a) if:

7-64 (1) that portion of the claim is for damage that is
 7-65 covered by the flood insurance policy, if the required flood
 7-66 insurance coverage was in effect on the date the damage occurred; or

7-67 (2) that portion of the claim is for damage that would
 7-68 have been covered by the flood insurance policy, if the required
 7-69 flood insurance coverage was not in effect on the date the damage

8-1 occurred.

8-2 SECTION 19. Section 2210.254, Insurance Code, is amended by
8-3 adding Subsection (e) to read as follows:

8-4 (e) The department may establish an annual renewal period
8-5 for persons appointed as qualified inspectors.

8-6 SECTION 20. Subchapter F, Chapter 2210, Insurance Code, is
8-7 amended by adding Section 2210.2551 to read as follows:

8-8 Sec. 2210.2551. EXCLUSIVE ENFORCEMENT AUTHORITY; RULES.

8-9 (a) The department has exclusive authority over all matters
8-10 relating to the appointment and oversight of qualified inspectors
8-11 for purposes of this chapter.

8-12 (b) The commissioner by rule shall establish criteria to
8-13 ensure that a person seeking appointment as a qualified inspector
8-14 under this subchapter, including an engineer seeking appointment
8-15 under Section 2210.255, possesses the knowledge, understanding,
8-16 and professional competence to perform windstorm inspections under
8-17 this chapter and to comply with other requirements of this chapter.

8-18 SECTION 21. The heading to Section 2210.256, Insurance
8-19 Code, is amended to read as follows:

8-20 Sec. 2210.256. DISCIPLINARY PROCEEDINGS REGARDING
8-21 APPOINTED INSPECTORS AND CERTAIN OTHER PERSONS.

8-22 SECTION 22. Section 2210.256, Insurance Code, is amended by
8-23 adding Subsection (a-1) to read as follows:

8-24 (a-1) In addition to any other action authorized under this
8-25 section, the commissioner ex parte may enter an emergency cease and
8-26 desist order under Chapter 83 against a qualified inspector, or a
8-27 person acting as a qualified inspector, if:

8-28 (1) the commissioner believes that:

8-29 (A) the qualified inspector has:

8-30 (i) through submitting or failing to submit
8-31 to the department sealed plans, designs, calculations, or other
8-32 substantiating information, failed to demonstrate that a structure
8-33 or a portion of a structure subject to inspection meets the
8-34 requirements of this chapter and department rules; or

8-35 (ii) refused to comply with requirements
8-36 imposed under this chapter or department rules; or

8-37 (B) the person acting as a qualified inspector is
8-38 acting without appointment as a qualified inspector under Section
8-39 2210.254 or 2210.255; and

8-40 (2) the commissioner determines that the conduct
8-41 described by Subdivision (1) is fraudulent or hazardous or creates
8-42 an immediate danger to the public.

8-43 SECTION 23. Section 2210.259, Insurance Code, is amended by
8-44 adding Subsection (c) to read as follows:

8-45 (c) The commissioner by rule may provide for a discount of,
8-46 or a credit against, a surcharge assessed under Subsection (a) in
8-47 instances in which a policyholder demonstrates that the
8-48 noncompliant structure was constructed with at least one structural
8-49 building component that complies with the building code standards
8-50 set forth in the plan of operation.

8-51 SECTION 24. Subchapter F, Chapter 2210, Insurance Code, is
8-52 amended by adding Section 2210.260 to read as follows:

8-53 Sec. 2210.260. ALTERNATIVE ELIGIBILITY FOR COVERAGE. (a)
8-54 On and after January 1, 2012, a person who has an insurable interest
8-55 in a residential structure may obtain insurance coverage through
8-56 the association for that structure without obtaining a certificate
8-57 of compliance under Section 2210.251(g) in accordance with this
8-58 section and rules adopted by the commissioner.

8-59 (b) The department may issue an alternative certification
8-60 for a residential structure if the person who has an insurable
8-61 interest in the structure demonstrates that at least one qualifying
8-62 structural building component of the structure has been:

8-63 (1) inspected by a department inspector or by a
8-64 qualified inspector; and

8-65 (2) determined to be in compliance with applicable
8-66 building code standards, as set forth in the plan of operation.

8-67 (c) The commissioner shall adopt reasonable and necessary
8-68 rules to implement this section. The rules adopted under this
8-69 section must establish which structural building components are

9-1 considered qualifying structural building components for the
 9-2 purposes of Subsection (b), taking into consideration those items
 9-3 that are most probable to generate losses for the association's
 9-4 policyholders and the cost to upgrade those items.

9-5 (d) Except as provided in Section 2210.251(f), a person who
 9-6 has an insurable interest in a residential structure that is
 9-7 insured by the association as of January 1, 2012, but for which the
 9-8 person has not obtained a certificate of compliance under Section
 9-9 2210.251(g), must obtain an alternative certification under this
 9-10 section before the association, on or after January 1, 2013, may
 9-11 renew coverage for the structure.

9-12 (e) Each residential structure for which a person obtains an
 9-13 alternative certification under this section must comply with:

9-14 (1) the requirements of this chapter, including
 9-15 Section 2210.258; and

9-16 (2) the association's underwriting requirements,
 9-17 including maintaining the structure in an insurable condition and
 9-18 paying premiums in the manner required by the association.

9-19 (f) The association shall develop and implement an
 9-20 actuarially sound rate, credit, or surcharge that reflects the
 9-21 risks presented by structures with reference to which alternative
 9-22 certifications have been obtained under this section. A rate,
 9-23 credit, or surcharge under this subsection may vary based on the
 9-24 number of qualifying structural building components included in a
 9-25 structure with reference to which an alternative certification is
 9-26 obtained under this section.

9-27 SECTION 25. The heading to Subchapter H, Chapter 2210,
 9-28 Insurance Code, is amended to read as follows:

9-29 SUBCHAPTER H. RATES; DISCOUNTS AND CREDITS

9-30 SECTION 26. Sections 2210.355(b) and (g), Insurance Code,
 9-31 are amended to read as follows:

9-32 (b) In adopting rates under this chapter, the following must
 9-33 be considered:

9-34 (1) the past and prospective loss experience within
 9-35 and outside this state of hazards for which insurance is made
 9-36 available through the plan of operation, if any;

9-37 (2) expenses of operation, including acquisition
 9-38 costs;

9-39 (3) a reasonable margin for profit and contingencies;

9-40 (4) payment of public security obligations for Class 1
 9-41 public securities issued under this chapter, including the
 9-42 additional amount of any debt service coverage determined by the
 9-43 association to be required for the issuance of marketable public
 9-44 securities; and

9-45 (5) [~~4~~] all other relevant factors, within and
 9-46 outside this state.

9-47 (g) A commission paid to an agent for a windstorm and hail
 9-48 insurance policy issued by the association must comply with the
 9-49 commission structure approved by the commissioner under Section
 9-50 2210.356 and be reasonable, adequate, not unfairly discriminatory,
 9-51 and nonconfiscatory.

9-52 SECTION 27. Subchapter H, Chapter 2210, Insurance Code, is
 9-53 amended by adding Section 2210.356 to read as follows:

9-54 Sec. 2210.356. AGENT COMMISSIONS. (a) The commissioner,
 9-55 after receiving a recommendation from the board, shall approve a
 9-56 commission structure for payment of an agent who submits an
 9-57 application for coverage to the association on behalf of a person
 9-58 who has an insurable interest in insurable property.

9-59 (b) The commission structure adopted by the commissioner
 9-60 must be fair and reasonable, taking into consideration the amount
 9-61 of work performed by an agent in submitting an application to the
 9-62 association and the prevailing commission structure in the private
 9-63 windstorm insurance market.

9-64 SECTION 28. Subchapter H, Chapter 2210, Insurance Code, is
 9-65 amended by adding Section 2210.363 to read as follows:

9-66 Sec. 2210.363. PREMIUM DISCOUNTS; SURCHARGE CREDITS. (a)
 9-67 The association may offer a person insured under this chapter an
 9-68 actuarially justified premium discount on a policy issued by the
 9-69 association, or an actuarially justified credit against a surcharge

10-1 assessed against the person, other than a surcharge assessed under
 10-2 Subchapter M, if the construction, alteration, remodeling,
 10-3 enlargement, or repair of, or an addition to, insurable property
 10-4 exceeds applicable building code standards set forth in the plan of
 10-5 operation.

10-6 (b) The association shall offer a person insured under this
 10-7 chapter an actuarially justified premium discount on a policy
 10-8 issued by the association, or an actuarially justified credit
 10-9 against a surcharge assessed against the person, other than a
 10-10 surcharge assessed under Subchapter M, if, in the policy period
 10-11 immediately preceding the policy period for which the premium is
 10-12 paid, the person chose binding arbitration offered by the
 10-13 association under Section 2210.553.

10-14 (c) The commissioner shall adopt rules necessary to
 10-15 implement and enforce this section.

10-16 SECTION 29. Chapter 2210, Insurance Code, is amended by
 10-17 adding Subchapter I to read as follows:

10-18 SUBCHAPTER I. EXPERT PANEL

10-19 Sec. 2210.401. FUNDING AND RESOURCES. (a) At the request
 10-20 of the commissioner, the association shall provide the funds and
 10-21 resources necessary to implement Section 2210.402, including:

10-22 (1) employing or retaining persons to perform the
 10-23 functions necessary or proper under Section 2210.402;

10-24 (2) providing administrative assistance and services,
 10-25 including planning, contracting, and purchasing; and

10-26 (3) providing computer equipment and support.

10-27 (b) A person or entity employed or retained under Subsection
 10-28 (a) acts solely under the direction of, and performs duties
 10-29 assigned by, the commissioner.

10-30 Sec. 2210.402. EXPERT PANEL. (a) This section applies only
 10-31 to losses concurrently caused by wind and tidal surges in which no
 10-32 substantial portion of an insured structure, other than the
 10-33 foundation of the structure, remains.

10-34 (b) The commissioner shall appoint a panel of experts to
 10-35 advise the association concerning the extent to which a loss to
 10-36 insurable property that is described by Subsection (a) was caused
 10-37 by wind and tidal surges. The panel consists of the number of
 10-38 experts determined by the commissioner, and the commissioner shall
 10-39 appoint one member of the panel to serve as the presiding officer of
 10-40 the panel.

10-41 (c) Members of the panel must have professional expertise
 10-42 in, and be knowledgeable concerning, the geography and meteorology
 10-43 of the seacoast territory as well as the scientific basis for
 10-44 determining the extent to which a loss is caused by wind and tidal
 10-45 surges. The areas of expertise of the panel members may include
 10-46 structural engineering, hydrology, statistical science, actuarial
 10-47 science, claims adjusting, and other areas of expertise determined
 10-48 to be necessary and advisable by the commissioner.

10-49 (d) The panel shall meet at the request of the commissioner
 10-50 or the call of the presiding officer of the panel.

10-51 (e) The panel shall investigate, collect, and evaluate the
 10-52 information necessary to provide recommendations under Subsection
 10-53 (f).

10-54 (f) At the request of the commissioner, the panel shall
 10-55 recommend to the commissioner methods or models for determining the
 10-56 extent to which a loss to insurable property may be or was caused by
 10-57 wind and tidal surges with respect to any weather-related event for
 10-58 geographic areas or regions designated by the commissioner. The
 10-59 panel shall, at the request of the commissioner, develop both
 10-60 pre-event and post-event methods or models for determining the
 10-61 extent to which a loss to insurable property may be or was caused by
 10-62 wind and tidal surges. The methods or models developed by the panel
 10-63 shall provide guidance to the commissioner on the issue of whether
 10-64 loss to insurable property resulting from a weather-related event
 10-65 may be or has been caused by wind and tidal surges. The methods or
 10-66 models must be based on sound scientific principles.

10-67 (g) After consideration of the recommendations made by the
 10-68 panel under Subsection (f), the commissioner shall publish
 10-69 guidelines that the association will use to settle or pay a claim

11-1 based on a loss described by this section.

11-2 Sec. 2210.403. RULES. The commissioner may adopt rules as
 11-3 necessary to implement this subchapter.

11-4 SECTION 30. Section 2210.452(c), Insurance Code, is amended
 11-5 to read as follows:

11-6 (c) At the end of each calendar year or policy year, the
 11-7 association shall use the net gain from operations of the
 11-8 association, including all premium and other revenue of the
 11-9 association in excess of incurred losses, ~~and~~ operating expenses,
 11-10 public security obligations, and public security administrative
 11-11 expenses, to make payments to the trust fund, to procure
 11-12 reinsurance, or to make payments to the trust fund and to procure
 11-13 reinsurance.

11-14 SECTION 31. The heading to Section 2210.453, Insurance
 11-15 Code, is amended to read as follows:

11-16 Sec. 2210.453. RISK TRANSFER FINANCING; REINSURANCE.

11-17 SECTION 32. Section 2210.453, Insurance Code, is amended by
 11-18 adding Subsections (c), (d), and (e) to read as follows:

11-19 (c) Not later than January 1 of each year, to establish the
 11-20 solvency level required under this chapter, the board of directors
 11-21 shall determine the association's current probable maximum loss,
 11-22 based on an average of at least two recognized catastrophe models,
 11-23 as follows:

11-24 (1) for calendar years 2011 and 2012, at not less than
 11-25 a one in 50 year occurrence;

11-26 (2) for calendar year 2013, at not less than a one in
 11-27 75 year occurrence; and

11-28 (3) for each calendar year after calendar year 2013,
 11-29 at not less than a one in 100 year occurrence.

11-30 (d) The board of directors shall, on January 1 of each year,
 11-31 develop a plan to obtain pre-event risk transfer financing from
 11-32 private sector sources determined by the board of directors to be
 11-33 reasonable and appropriate to the association's risk of loss and in
 11-34 an amount sufficient to maintain the claims paying ability of the
 11-35 association in the event of a catastrophe with estimated damages of
 11-36 \$2.5 billion or more. The plan submitted under this subsection is
 11-37 for informational purposes only and does not bind the association
 11-38 to a particular course of action. The plan shall, at a minimum,
 11-39 include:

11-40 (1) a certification to the governor, lieutenant
 11-41 governor, speaker of the house of representatives, and commissioner
 11-42 stating whether or not the required solvency level of the
 11-43 association is satisfied for that calendar year;

11-44 (2) an analysis of the claims paying ability of the
 11-45 association both with and without reliance upon borrowing
 11-46 authorized by this chapter;

11-47 (3) consideration of the costs, availability, and
 11-48 effects of reinsurance, bonds, and other risk transfer financing
 11-49 mechanisms;

11-50 (4) the likelihood and maximum size of assessments
 11-51 authorized by this chapter; and

11-52 (5) the probability of exhausting the association's
 11-53 financial resources.

11-54 (e) If the association does not purchase reinsurance as
 11-55 authorized by this section, the board, not later than June 1 of each
 11-56 year, shall submit to the commissioner, the legislative oversight
 11-57 board established under Subchapter N, the governor, the lieutenant
 11-58 governor, and the speaker of the house of representatives a report
 11-59 containing an actuarial plan for paying losses in the event of a
 11-60 catastrophe with estimated damages of \$2.5 billion or more. The
 11-61 report submitted under this subsection is for informational
 11-62 purposes only and does not bind the association to a particular
 11-63 course of action.

11-64 SECTION 33. Section 2210.502, Insurance Code, is amended by
 11-65 adding Subsection (e) to read as follows:

11-66 (e) Notwithstanding Subsection (a), the maximum liability
 11-67 limit described by Section 2210.501(b)(1) may not exceed \$1.5
 11-68 million.

11-69 SECTION 34. The heading to Subchapter L, Chapter 2210,

12-1 Insurance Code, is amended to read as follows:

12-2 SUBCHAPTER L. CERTAIN APPEALS AND OTHER ACTIONS

12-3 SECTION 35. Sections 2210.551(a) and (b), Insurance Code,
12-4 are amended to read as follows:

12-5 (a) This section:

12-6 (1) does not apply to:

12-7 (A) a claimant who has made a claim, as those
12-8 terms are defined by Section 2210.571; or

12-9 (B) a person insured under this chapter who has
12-10 elected binding arbitration offered by the association under
12-11 Section 2210.553; and

12-12 (2) applies only to:

12-13 (A) ~~[(1)]~~ a person not described by Subdivision
12-14 (1) who is insured under this chapter or an authorized
12-15 representative of the person; or

12-16 (B) ~~[(2)]~~ an affected insurer.

12-17 (b) A person or entity described by Subsection (a)(2) ~~[(a)]~~
12-18 who is aggrieved by an act, ruling, or decision of the association
12-19 may appeal to the commissioner not later than the 30th day after the
12-20 date of that act, ruling, or decision.

12-21 SECTION 36. The heading to Section 2210.552, Insurance
12-22 Code, is amended to read as follows:

12-23 Sec. 2210.552. CERTAIN ~~[CLAIM]~~ DISPUTES; VENUE AND NOTICE
12-24 OF INTENT TO BRING ACTION.

12-25 SECTION 37. Section 2210.552, Insurance Code, is amended by
12-26 amending Subsection (a) and adding Subsections (e) and (f) to read
12-27 as follows:

12-28 (a) Except as provided by Sections 2210.007 and 2210.106 and
12-29 subject to Subsection (e), a person insured under this chapter who
12-30 is aggrieved by an act, ruling, or decision of the association
12-31 relating to the payment of, the amount of, or the denial of a claim
12-32 may:

12-33 (1) after providing the association the notice that
12-34 meets the requirements of Section 541.154, bring an action against
12-35 the association, including an action under Chapter 541; or

12-36 (2) if applicable, appeal the act, ruling, or decision
12-37 under Section 2210.551.

12-38 (e) This subchapter and Subchapter L-1 provide the
12-39 exclusive remedies for a claimant to resolve a dispute with the
12-40 association concerning the payment of, the amount of, or the denial
12-41 of a claim. A claimant may not bring an action under this section,
12-42 including an action under Section 2210.578, against the association
12-43 concerning the payment of, the amount of, or the denial of a claim
12-44 before exhausting all other remedies under Subchapter L-1. If a
12-45 claimant brings an action against the association concerning the
12-46 payment of, the amount of, or the denial of a claim before
12-47 exhausting those remedies, the court shall abate the action until
12-48 those remedies have been exhausted. For purposes of this
12-49 subsection, "claim" and "claimant" have the meanings assigned by
12-50 Section 2210.571.

12-51 (f) A claimant who prevails in an action against the
12-52 association under this section:

12-53 (1) may recover:

12-54 (A) the relief described in Sections 541.152(a)
12-55 and 2210.575; and

12-56 (B) prejudgment interest; and

12-57 (2) may recover damages under Section 541.152(b) or
12-58 under Section 17.50, Business & Commerce Code, not to exceed two
12-59 times the amount of actual damages, only if the claimant proves by
12-60 clear and convincing evidence that the association intentionally or
12-61 knowingly committed an act prohibited by Chapter 541 as an unfair
12-62 method of competition or an unfair or deceptive act or practice in
12-63 the business of insurance.

12-64 SECTION 38. Subchapter L, Chapter 2210, Insurance Code, is
12-65 amended by adding Sections 2210.553 and 2210.554 to read as
12-66 follows:

12-67 Sec. 2210.553. VOLUNTARY ARBITRATION OF CERTAIN COVERAGE
12-68 AND CLAIM DISPUTES. (a) If a person insured under this chapter has
12-69 a dispute with the association involving an act, ruling, or

13-1 decision of the association relating to the payment of, the amount
 13-2 of, or the denial of a claim filed by the person, the association
 13-3 may offer to the person that the association and the person resolve
 13-4 the dispute through binding arbitration.

13-5 (b) An arbitration under this section shall be conducted in
 13-6 the manner and under rules and deadlines prescribed by the
 13-7 commissioner by rule.

13-8 Sec. 2210.554. LIMITATIONS PERIOD. Notwithstanding any
 13-9 other law, including Section 541.162, a person insured under this
 13-10 chapter who brings an action against the association must bring the
 13-11 action not later than the second anniversary of the date of the act,
 13-12 ruling, or decision of the association by which the insured is
 13-13 aggrieved.

13-14 SECTION 39. Chapter 2210, Insurance Code, is amended by
 13-15 adding Subchapter L-1 to read as follows:

13-16 SUBCHAPTER L-1. CLAIMS: SETTLEMENT, APPRAISAL, AND DISPUTE
 13-17 RESOLUTION

13-18 Sec. 2210.571. DEFINITIONS. In this subchapter:

13-19 (1) "Association policy" means a windstorm and hail
 13-20 insurance policy issued by the association.

13-21 (2) "Claim" means a request for payment under an
 13-22 association policy following damage to property insured under the
 13-23 policy.

13-24 (3) "Claimant" means a person who makes a claim.

13-25 Sec. 2210.572. FILING OF CLAIM. Subject to the good cause
 13-26 extension to which a claimant is entitled under Section
 13-27 2210.205(b), an insured must file a claim under an association
 13-28 policy not later than the first anniversary of the date on which the
 13-29 damage to property that is the basis of the claim occurs.

13-30 Sec. 2210.573. RECEIPT OF NOTICE OF CLAIM. (a) Not later
 13-31 than the 30th day after the date the association receives notice of
 13-32 a claim, the association shall:

13-33 (1) acknowledge receipt of the claim;

13-34 (2) commence any investigation of the claim; and

13-35 (3) request from the claimant all items, statements,
 13-36 and forms that the association reasonably believes, at that time,
 13-37 will be required from the claimant.

13-38 (b) The association may make additional requests for
 13-39 information if during the investigation of the claim the additional
 13-40 requests are necessary.

13-41 (c) If the acknowledgment of receipt of a claim is not made
 13-42 in writing, the association shall make a record of the date, manner,
 13-43 and content of the acknowledgment.

13-44 Sec. 2210.574. NOTICE OF ACCEPTANCE OR REJECTION OF CLAIM.
 13-45 (a) Except as provided by Subsection (c), the association shall
 13-46 notify a claimant in writing of the acceptance or rejection of a
 13-47 claim not later than the 30th day after the date the association
 13-48 receives all items, statements, and forms required by the
 13-49 association to secure final proof of loss.

13-50 (b) If the association rejects the claim, the notice
 13-51 required by Subsection (a) must state the reasons for the
 13-52 rejection.

13-53 (c) If the association is unable to accept or reject the
 13-54 claim within the period specified by Subsection (a), the
 13-55 association, within that same period, shall notify the claimant of
 13-56 the reasons that the association needs additional time. The
 13-57 association shall accept or reject the claim not later than the 30th
 13-58 day after the date the association notifies a claimant under this
 13-59 subsection.

13-60 Sec. 2210.575. PAYMENT OF CLAIM; DELAY IN PAYMENT OF CLAIM;
 13-61 INTEREST ON CLAIM. (a) Except as provided by Subsection (b) or
 13-62 (c), if the association notifies a claimant under Section 2210.574
 13-63 that the association will pay a claim or part of a claim, the
 13-64 association shall pay the claim not later than the 10th day after
 13-65 the date notice is made.

13-66 (b) Except as provided by Subsection (c), if payment of the
 13-67 claim or part of the claim is conditioned on the performance of an
 13-68 act by the claimant, the association shall pay the claim not later
 13-69 than the 10th day after the date the act is performed.

14-1 (c) If the association does not have sufficient cash on hand
14-2 or available in the catastrophe reserve trust fund to comply with
14-3 this section, the commissioner by rule may extend the periods
14-4 described by Subsections (a) and (b) by an additional period not to
14-5 exceed 120 days.

14-6 Sec. 2210.5751. EXTENSION OF CERTAIN DEADLINES. In the
14-7 event of a weather-related catastrophe or major natural disaster,
14-8 as defined by the commissioner, the claim-handling deadlines under
14-9 Sections 2210.573, 2210.574, and 2210.575 are extended for an
14-10 additional 15 days.

14-11 Sec. 2210.576. DISPUTES CONCERNING AMOUNT OF LOSS. (a) If a
14-12 claimant disputes the amount of loss determined by the association,
14-13 the claimant or the association may resolve that dispute by, not
14-14 later than the 60th day after the date the claimant receives the
14-15 notice from the association that gives rise to the dispute,
14-16 requesting appraisal in accordance with the terms of the insurance
14-17 policy.

14-18 (b) The 60-day period described by Subsection (a) may be
14-19 extended for:

14-20 (1) an agreed period of time by mutual consent of the
14-21 claimant and the association; or

14-22 (2) 30 days by the claimant if, before the expiration
14-23 of the 60-day period described by Subsection (a), the claimant is
14-24 unable to retain an appraiser and provides written notice of that
14-25 inability to the association.

14-26 (c) If a claimant or the association requests appraisal
14-27 under this section, the claimant is responsible for paying any
14-28 costs incurred or charged by an appraiser retained by and on behalf
14-29 of the claimant, the association is responsible for paying any
14-30 costs incurred or charged by an appraiser retained by and on behalf
14-31 of the association, and the claimant and the association are
14-32 responsible in equal shares for any costs incurred or charged by any
14-33 umpire.

14-34 (d) Except as provided by Subsection (b), if the association
14-35 or a claimant does not demand appraisal before the expiration of the
14-36 60-day period described by Subsection (a), the association or
14-37 claimant, as applicable, waives the right to have the amount of loss
14-38 determined by appraisal.

14-39 (e) This section applies only to disputes regarding the
14-40 amount of loss and does not apply to disputes regarding the
14-41 association's determination concerning coverage for a claim or
14-42 causation of damage to property insured under an association policy
14-43 that is the basis of a claim.

14-44 (f) The appraisal decision is binding on the claimant and
14-45 the association as to the amount of loss and is subject to review
14-46 only if the claimant brings an action against the association as
14-47 described by Section 2210.578.

14-48 Sec. 2210.577. ALTERNATE DISPUTE RESOLUTION. (a) If a
14-49 claimant disputes the association's determination concerning
14-50 coverage for a claim or causation of damage to property insured
14-51 under an association policy that is the basis of a claim and
14-52 provides notice of intent to bring an action that meets the
14-53 requirements of Section 541.154, the association may require the
14-54 claimant, as a prerequisite to filing the action against the
14-55 association, to submit the dispute to alternate dispute resolution
14-56 by mediation or moderated settlement conference, as provided by
14-57 Chapter 154, Civil Practice and Remedies Code.

14-58 (b) The association must request alternate dispute
14-59 resolution of a dispute described by Subsection (a) not later than
14-60 the 60th day after the date the association receives from the
14-61 claimant notice of intent to bring an action.

14-62 (c) Alternate dispute resolution under this section must be
14-63 completed not later than the 60th day after the date a request for
14-64 alternate dispute resolution is made under Subsection (b). The
14-65 60-day period described by this subsection may be extended by the
14-66 commissioner by rule or by the association and a claimant by mutual
14-67 consent.

14-68 (d) If alternate dispute resolution is not completed before
14-69 the expiration of the 60-day period described by Subsection (c) or,

15-1 if applicable, any extension under that subsection, the claimant
 15-2 may bring an action against the association as described by Section
 15-3 2210.578.

15-4 (e) A moderated settlement conference under this section
 15-5 may be conducted by a panel consisting of one or more impartial
 15-6 third parties.

15-7 (f) The commissioner shall establish rules to implement
 15-8 this section, including provisions for expediting alternate
 15-9 dispute resolution, facilitating the ability of a claimant to
 15-10 appear with or without counsel, and providing that formal rules of
 15-11 evidence shall not apply to the proceedings.

15-12 Sec. 2210.578. ACTION BY CLAIMANT. (a) Subject to
 15-13 providing notice of intent to bring an action that meets the
 15-14 requirements of Section 541.154, a claimant aggrieved by the
 15-15 association's decision concerning a claim under this subchapter,
 15-16 including an appraisal process under Section 2210.576 or the
 15-17 outcome of alternate dispute resolution under Section 2210.577, may
 15-18 bring an action against the association.

15-19 (b) If six or more claimants file civil actions against the
 15-20 association as a result of a weather-related event, an action
 15-21 brought against the association under this section must be presided
 15-22 over by a judge appointed by the judicial panel on multidistrict
 15-23 litigation designated under Section 74.161, Government Code. A
 15-24 judge appointed under this section must be an active judge in Travis
 15-25 County, for suits filed in Travis County, or an active judge in the
 15-26 county in which suit is filed, for a suit filed in a county other
 15-27 than Travis County. "Active judge" shall be defined as in Section
 15-28 74.041, Government Code.

15-29 (c) An action brought against the association is governed by
 15-30 this subchapter and Sections 2210.552 and 2210.554.

15-31 Sec. 2210.579. CONSTRUCTION WITH OTHER LAW. (a) To the
 15-32 extent of any conflict between a provision of this subchapter and
 15-33 any other law, the provision of this subchapter prevails.

15-34 (b) Notwithstanding any other law, the association may not
 15-35 bring an action against a claimant, for declaratory or other
 15-36 relief, before the 180th day after the date an appraisal under
 15-37 Section 2210.576, or alternate dispute resolution under Section
 15-38 2210.577, is completed.

15-39 SECTION 40. Section 2210.602, Insurance Code, is amended by
 15-40 amending Subdivisions (1) and (2) and adding Subdivisions (1-a),
 15-41 (1-b), (5-a), (6-a), (6-b), (6-c), and (6-d) to read as follows:

15-42 (1) "Authority" means the Texas Public Finance
 15-43 Authority.

15-44 (1-a) "Board" means the board of directors of the
 15-45 Texas Public Finance Authority.

15-46 (1-b) "Catastrophic event" means an occurrence or a
 15-47 series of occurrences that occurs in a catastrophe area during a
 15-48 calendar year and that results in insured losses and operating
 15-49 expenses of the association in excess of premium and other revenue
 15-50 of the association.

15-51 (2) "Class 1 public securities" means public
 15-52 securities authorized to be issued [~~on or after an occurrence or~~
 15-53 ~~series of occurrences~~] by Section 2210.072, including a commercial
 15-54 paper program authorized before the occurrence of a catastrophic
 15-55 event [~~so long as no tranche of commercial paper is issued under the~~
 15-56 ~~program until after the catastrophic event~~].

15-57 (5-a) "Gross premium" means association premium, less
 15-58 premium returned to policyholders for canceled or reduced policies.

15-59 (6-a) "Marketable" means, with reference to public
 15-60 securities, securities:

15-61 (A) for which the authority has determined there
 15-62 to be demonstrable market demand; and

15-63 (B) that can be rated by at least two nationally
 15-64 recognized rating agencies for municipal securities in:

15-65 (i) the highest rating category for a
 15-66 short-term debt instrument; or

15-67 (ii) one of the three highest rating
 15-68 categories for a long-term debt instrument.

15-69 (6-b) "Member assessment trust fund" means the

16-1 dedicated trust fund established by the board and held by the Texas
 16-2 Treasury Safekeeping Trust Company into which member assessments
 16-3 collected under Sections 2210.613 and 2210.6135 are deposited.

16-4 (6-c) "Net premium" means gross premium, less:

16-5 (A) premium collected by the association but that
 16-6 has not yet been earned by the association;

16-7 (B) earned premium expected to be paid in
 16-8 connection with the disposition of losses not associated with a
 16-9 catastrophic event;

16-10 (C) operating expenses; and

16-11 (D) any amounts necessary to fund or replenish a
 16-12 reasonable operating reserve for the association.

16-13 (6-d) "Premium surcharge trust fund" means the
 16-14 dedicated trust fund established by the board and held by the Texas
 16-15 Treasury Safekeeping Trust Company into which premium surcharges
 16-16 collected under Section 2210.613 are deposited.

16-17 SECTION 41. Section 2210.604, Insurance Code, is amended by
 16-18 amending Subsections (b) and (c) and adding Subsection (d) to read
 16-19 as follows:

16-20 (b) The association shall specify in the association's
 16-21 request to the board the maximum principal amount of the public
 16-22 securities and the maximum term of the public securities. The
 16-23 maximum principal requested under this subsection may not exceed
 16-24 the amount of public securities the association, in consultation
 16-25 with the authority, determines to be marketable.

16-26 (c) The principal amount determined by the association
 16-27 under Subsection (b) may be increased to include an amount
 16-28 sufficient to:

16-29 (1) pay the costs related to issuance of the public
 16-30 securities;

16-31 (2) provide a public security reserve fund; ~~and~~

16-32 (3) capitalize interest for the period determined
 16-33 necessary by the association, not to exceed two years; and

16-34 (4) provide the amount of debt service coverage for
 16-35 public securities determined by the association, in consultation
 16-36 with the authority, to be required for the issuance of marketable
 16-37 public securities.

16-38 (d) If the amount of marketable Class 1 public securities is
 16-39 insufficient to pay the excess losses for which the securities are
 16-40 issued, marketable Class 2 public securities may be issued. If the
 16-41 amount of marketable Class 2 public securities is insufficient to
 16-42 pay the excess losses for which the securities are issued,
 16-43 marketable Class 3 public securities may be issued.

16-44 SECTION 42. Section 2210.605(c), Insurance Code, is amended
 16-45 to read as follows:

16-46 (c) Public securities issued under Section 2210.6136 [~~this~~
 16-47 ~~chapter~~] are eligible obligations under Section 404.027,
 16-48 Government Code.

16-49 SECTION 43. Section 2210.608(a), Insurance Code, is amended
 16-50 to read as follows:

16-51 (a) Public security proceeds, including investment income,
 16-52 shall be held in trust for the exclusive use and benefit of the
 16-53 association. The association may use the proceeds to:

16-54 (1) pay incurred claims and operating expenses of the
 16-55 association;

16-56 (2) purchase reinsurance for the association;

16-57 (3) pay the costs of issuing the public securities,
 16-58 and public security administrative expenses, if any;

16-59 (4) provide a public security reserve; ~~and~~

16-60 (5) pay capitalized interest and principal on the
 16-61 public securities for the period determined necessary by the
 16-62 association;

16-63 (6) pay private financial agreements entered into by
 16-64 the association as temporary sources of payment of losses and
 16-65 operating expenses of the association; and

16-66 (7) reimburse the association for any cost described
 16-67 by Subdivisions (1)-(6) paid by the association before issuance of
 16-68 the public securities.

16-69 SECTION 44. Section 2210.609, Insurance Code, is amended to

17-1 read as follows:

17-2 Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY
17-3 OBLIGATIONS. (a) The board and the association shall enter into an
17-4 agreement under which the association shall provide for the payment
17-5 of all public security obligations from available funds collected
17-6 by the association and deposited into the public security
17-7 obligation revenue fund. If the association determines that it is
17-8 unable to pay the public security obligations and public security
17-9 administrative expenses, if any, with available funds, the
17-10 association shall pay those obligations and expenses in accordance
17-11 with Sections 2210.612, 2210.613, ~~[and] 2210.6135,~~ and 2210.6136 as
17-12 applicable. Class 1, Class 2, or Class 3 public securities may be
17-13 issued on a parity or subordinate lien basis with other Class 1,
17-14 Class 2, or Class 3 public securities, respectively.

17-15 (b) If any public securities issued under this chapter are
17-16 outstanding, the authority [The board] shall notify the association
17-17 of the amount of the public security obligations and the estimated
17-18 amount of public security administrative expenses, if any, each
17-19 year in a period sufficient, as determined by the association, to
17-20 permit the association to determine the availability of funds,
17-21 assess members of the association under Sections 2210.613 and
17-22 2210.6135, and assess a premium surcharge if necessary.

17-23 (c) The association shall deposit all revenue collected
17-24 under Section ~~[Sections] 2210.612 [, 2210.613, and 2210.6135]~~ in
17-25 the public security obligation revenue fund, all revenue collected
17-26 under Section 2210.613(b) in the premium surcharge trust fund, and
17-27 all revenue collected under Sections 2210.613(a) and 2210.6135 in
17-28 the member assessment trust fund. Money deposited in a ~~[the]~~ fund
17-29 may be invested as permitted by general law. Money in a ~~[the]~~ fund
17-30 required to be used to pay public security obligations and public
17-31 security administrative expenses, if any, shall be transferred to
17-32 the appropriate funds in the manner and at the time specified in the
17-33 proceedings authorizing the public securities to ensure timely
17-34 payment of obligations and expenses. This may include the board
17-35 establishing funds and accounts with the comptroller that the board
17-36 determines are necessary to administer and repay the public
17-37 security obligations. If the association has not transferred
17-38 amounts sufficient to pay the public security obligations to the
17-39 board's designated interest and sinking fund in a timely manner,
17-40 the board may direct the Texas Treasury Safekeeping Trust Company
17-41 to transfer from the public security obligation revenue fund, the
17-42 premium surcharge trust fund, or the member assessment trust fund
17-43 to the appropriate account the amount necessary to pay the public
17-44 security obligation.

17-45 (d) The association shall provide for the payment of the
17-46 public security obligations and the public security administrative
17-47 expenses by irrevocably pledging revenues received from premiums,
17-48 member assessments, premium surcharges, and amounts on deposit in
17-49 the public security obligation revenue fund, the premium surcharge
17-50 trust fund, and the member assessment trust fund, together with any
17-51 public security reserve fund, as provided in the proceedings
17-52 authorizing the public securities and related credit agreements.

17-53 (e) An amount owed by the board under a credit agreement
17-54 shall be payable from and secured by a pledge of revenues received
17-55 by the association or amounts from the public security obligation
17-56 trust fund, the premium surcharge trust fund, and the member
17-57 assessment trust fund to the extent provided in the proceedings
17-58 authorizing the credit agreement.

17-59 SECTION 45. Section 2210.610(a), Insurance Code, is amended
17-60 to read as follows:

17-61 (a) Revenues received from the premium surcharges under
17-62 Section 2210.613 and member assessments under Sections 2210.613 and
17-63 2210.6135 may be applied only as provided by this subchapter.

17-64 SECTION 46. Section 2210.611, Insurance Code, is amended to
17-65 read as follows:

17-66 Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT
17-67 EARNINGS. Revenue collected in any year from a premium surcharge
17-68 under Section 2210.613 and member assessments under Sections
17-69 2210.613 and 2210.6135 that exceeds the amount of the public

18-1 security obligations and public security administrative expenses
 18-2 payable in that year and interest earned on the public security
 18-3 obligation fund may, in the discretion of the association, be:

18-4 (1) used to pay public security obligations payable in
 18-5 the subsequent year, offsetting the amount of the premium surcharge
 18-6 and member assessments, as applicable, that would otherwise be
 18-7 required to be levied for the year under this subchapter;

18-8 (2) used to redeem or purchase outstanding public
 18-9 securities; or

18-10 (3) deposited in the catastrophe reserve trust fund.

18-11 SECTION 47. Section 2210.612, Insurance Code, is amended to
 18-12 read as follows:

18-13 Sec. 2210.612. PAYMENT OF CLASS 1 PUBLIC SECURITIES. (a)
 18-14 The association shall pay Class 1 public securities issued under
 18-15 Section 2210.072 from its net premium and other revenue.

18-16 (b) The association may enter financing arrangements as
 18-17 described by Section 2210.072(d) as necessary to obtain public
 18-18 securities issued under Section 2210.072 [~~that section~~]. Nothing
 18-19 in this subsection shall prevent the authorization and creation of
 18-20 one or more programs for the issuance of commercial paper before the
 18-21 date of an occurrence or series of occurrences that results in
 18-22 insured losses under Section 2210.072(a) [~~so long as no tranche of~~
 18-23 ~~commercial paper is issued under a commercial paper program until~~
 18-24 ~~after such an occurrence~~].

18-25 SECTION 48. Sections 2210.613(b), (c), and (d), Insurance
 18-26 Code, are amended to read as follows:

18-27 (b) Seventy percent of the cost of the public securities
 18-28 shall be paid by a [~~nonrefundable~~] premium surcharge collected
 18-29 under this section in an amount set by the commissioner. On
 18-30 approval by the commissioner, each insurer, the association, and
 18-31 the Texas FAIR Plan Association shall assess, as provided by this
 18-32 section, a premium surcharge to each policyholder of a policy that
 18-33 is in effect on or after the 180th day after the date the
 18-34 commissioner issues notice of the approval of the public securities
 18-35 [~~its policyholders as provided by this section~~]. The premium
 18-36 surcharge must be set in an amount sufficient to pay, for the
 18-37 duration of the issued public securities, all debt service not
 18-38 already covered by available funds or member assessments and all
 18-39 related expenses on the public securities.

18-40 (c) The premium surcharge under Subsection (b) shall be
 18-41 assessed on all policyholders of policies that cover [~~who reside or~~
 18-42 ~~have operations in, or whose~~] insured property that is located in a
 18-43 catastrophe area, including automobiles principally garaged in a
 18-44 catastrophe area. The premium surcharge shall be assessed on [~~for~~]
 18-45 each Texas windstorm and hail insurance policy and each property
 18-46 and casualty insurance policy, including an automobile insurance
 18-47 policy, issued for automobiles and other property located in the
 18-48 catastrophe area. A premium surcharge under Subsection (b) applies
 18-49 to:

18-50 (1) all policies written under the following lines of
 18-51 insurance:

18-52 (A) fire and allied lines;

18-53 (B) farm and ranch owners;

18-54 (C) residential property insurance;

18-55 (D) private passenger automobile liability and
 18-56 physical damage insurance; and

18-57 (E) commercial passenger automobile liability
 18-58 and physical damage insurance; and

18-59 (2) the property insurance portion of a commercial
 18-60 multiple peril insurance policy [~~that provide coverage on any~~
 18-61 ~~premises, locations, operations, or property located in the area~~
 18-62 ~~described by this subsection for all property and casualty lines of~~
 18-63 ~~insurance, other than federal flood insurance, workers'~~
 18-64 ~~compensation insurance, accident and health insurance, and medical~~
 18-65 ~~malpractice insurance~~].

18-66 (d) A premium surcharge under Subsection (b) is a separate
 18-67 [~~nonrefundable~~] charge in addition to the premiums collected and is
 18-68 not subject to premium tax or commissions. Failure by a
 18-69 policyholder to pay the surcharge constitutes failure to pay

19-1 premium for purposes of policy cancellation.

19-2 SECTION 49. Section 2210.6135(a), Insurance Code, is
19-3 amended to read as follows:

19-4 (a) The association shall pay Class 3 public securities
19-5 issued under Section 2210.074 as provided by this section through
19-6 member assessments. For the payment of the losses, the [The]
19-7 association shall assess the members of the association an amount
19-8 not to exceed \$500 million per occurrence or series of occurrences
19-9 in a calendar year that results in insured losses [year for the
19-10 payment of the losses]. The association shall notify each member of
19-11 the association of the amount of the member's assessment under this
19-12 section.

19-13 SECTION 50. Subchapter M, Chapter 2210, Insurance Code, is
19-14 amended by adding Section 2210.6136 to read as follows:

19-15 Sec. 2210.6136. COMBINED SOURCES OF PAYMENT. (a) In lieu
19-16 of issuing distinct Class 1, Class 2, or Class 3 public securities,
19-17 on request of the association and approval by the commissioner, the
19-18 board may issue public securities payable from all of the sources
19-19 described in Sections 2210.612, 2210.613, and 2210.6135 with:

19-20 (1) the first source of payment being as described in
19-21 Section 2210.612, to the extent public securities described by that
19-22 section are marketable;

19-23 (2) the second source of payment being as described in
19-24 Section 2210.613, in an amount not to exceed the amount of Class 2
19-25 public securities that could be issued under Section 2210.073 in
19-26 the calendar year in which securities are issued under this
19-27 section;

19-28 (3) the third source of payment being as described in
19-29 Section 2210.6135, in an amount not to exceed the amount of Class 3
19-30 public securities that could be issued under Section 2210.074 in
19-31 the calendar year in which securities are issued under this
19-32 section; and

19-33 (4) the fourth source of payment, if necessary, being
19-34 a distribution among member assessment and premium surcharges
19-35 described in Sections 2210.613 and 2210.6135 that complies with the
19-36 commissioner's order issued under Subsection (b).

19-37 (b) The commissioner by order shall specify the
19-38 distribution of the fourth source of payment under Subsection
19-39 (a)(4) based on the amount of public securities issued under this
19-40 section, the total amount of outstanding public securities issued
19-41 under this chapter, the sources of payment for the outstanding
19-42 public securities, and any other factors the commissioner
19-43 determines to be relevant.

19-44 (c) The aggregate principal amount of public securities
19-45 issued in the manner described by this section may not exceed \$2.5
19-46 billion in any consecutive 12-month period from the earlier of, as
19-47 applicable:

19-48 (1) the date on which public securities are issued
19-49 under Section 2210.072(a) before an occurrence or series of
19-50 occurrences that results in insured losses; or

19-51 (2) the date of an occurrence or series of occurrences
19-52 in a calendar year that results in insured losses in excess of
19-53 premium and other revenue of the association from available
19-54 reserves of the association and available amounts in the
19-55 catastrophe reserve trust fund.

19-56 SECTION 51. Section 2210.614, Insurance Code, is amended to
19-57 read as follows:

19-58 Sec. 2210.614. REFINANCING PUBLIC SECURITIES. (a) The
19-59 association may request the board to refinance, in accordance with
19-60 Chapter 1207, Government Code, any public securities issued in
19-61 accordance with Subchapter B-1, whether Class 1, Class 2, or Class 3
19-62 public securities, with public securities payable from any of the
19-63 [same] sources described by Section 2210.612, 2210.613, 2210.6135,
19-64 or 2210.6136 [as the original public securities]. The amount of
19-65 public securities that may be refinanced under this subsection with
19-66 the proceeds of Class 1 public securities may not exceed \$1 billion
19-67 for a single occurrence or a series of occurrences that takes place
19-68 in a calendar year.

19-69 (b) Notwithstanding Section 1207.006, Government Code,

20-1 public securities refinanced under this section may not have a term
 20-2 that is greater than 14 years.

20-3 SECTION 52. Section 2210.616, Insurance Code, is amended to
 20-4 read as follows:

20-5 Sec. 2210.616. STATE NOT TO IMPAIR PUBLIC SECURITY
 20-6 OBLIGATIONS. (a) The state pledges for the benefit and protection
 20-7 of financing parties, the board, and the association that the state
 20-8 will not take or permit any action that would:

20-9 (1) impair the collection of member assessments and
 20-10 premium surcharges or the deposit of those funds into the member
 20-11 assessment trust fund or premium surcharge trust fund;

20-12 (2) reduce, alter, or impair the member assessments or
 20-13 premium surcharges to be imposed, collected, and remitted to
 20-14 financing parties until the principal, interest, and premium, and
 20-15 any other charges incurred and contracts to be performed in
 20-16 connection with the related public securities, have been paid and
 20-17 performed in full; or

20-18 (3) [~~If public securities under this subchapter are~~
 20-19 outstanding, the state may not:

20-20 [~~(1) take action to limit or restrict the rights of the~~
 20-21 association to fulfill its responsibility to pay public security
 20-22 obligations, or

20-23 [~~(2)~~] in any way impair the rights and remedies of the
 20-24 public security owners until the public securities are fully
 20-25 discharged.

20-26 (b) A party issuing public securities under this subchapter
 20-27 may include the pledge described by Subsection (a) in any
 20-28 documentation relating to those securities.

20-29 SECTION 53. Subchapter M, Chapter 2210, Insurance Code, is
 20-30 amended by adding Section 2210.6165 to read as follows:

20-31 Sec. 2210.6165. PROPERTY RIGHTS. If public securities
 20-32 issued under this subchapter are outstanding, the rights and
 20-33 interests of the association, a successor to the association, any
 20-34 member of the association, or any member of the Texas FAIR Plan
 20-35 Association, including the right to impose, collect, and receive a
 20-36 premium surcharge or a member assessment authorized under this
 20-37 subchapter, are only contract rights until those revenues are first
 20-38 pledged for the repayment of the association's public security
 20-39 obligations as provided by Section 2210.609.

20-40 SECTION 54. Sections 2210.502(c) and 2210.551(e),
 20-41 Insurance Code, are repealed.

20-42 SECTION 55. (a) The Texas Department of Insurance and the
 20-43 Texas Windstorm Insurance Association shall jointly study whether
 20-44 the association's using a single adjuster program would improve the
 20-45 effectiveness and efficiency with which the association receives,
 20-46 processes, settles, and pays claims filed under insurance policies
 20-47 issued by the association under Chapter 2210, Insurance Code.

20-48 (b) The commissioner of insurance shall study the
 20-49 feasibility of the association writing policies directly and the
 20-50 impact the association writing policies directly would have on
 20-51 rates for policies issued by the association. The commissioner
 20-52 shall submit the finding of the study conducted under this
 20-53 subsection to the board of directors of the association.

20-54 (c) The results of the studies conducted under Subsections
 20-55 (a) and (b) of this section shall be included in the 2012 biennial
 20-56 report submitted to the legislature by the association under
 20-57 Section 2210.0025, Insurance Code.

20-58 SECTION 56. (a) A legislative interim study committee
 20-59 shall conduct a study of alternative ways to provide insurance to
 20-60 the seacoast territory of this state through a quasi-governmental
 20-61 entity.

20-62 (b) The committee is composed of 12 members appointed as
 20-63 follows:

20-64 (1) four members of the senate appointed by the
 20-65 lieutenant governor, two of whom represent one or more first tier
 20-66 coastal counties and two of whom do not represent a first tier
 20-67 coastal county;

20-68 (2) four members of the house of representatives
 20-69 appointed by the speaker of the house of representatives, two of

21-1 whom represent one or more first tier coastal counties and two of
 21-2 whom do not represent a first tier coastal county; and
 21-3 (3) four public members with a background in actuarial
 21-4 science, law, business, or insurance, as follows:
 21-5 (A) two members who do not reside in a first tier
 21-6 coastal county, appointed by the governor;
 21-7 (B) one member who resides in a first tier
 21-8 coastal county, appointed by the lieutenant governor; and
 21-9 (C) one member who resides in a first tier
 21-10 coastal county, appointed by the speaker of the house of
 21-11 representatives.
 21-12 (c) The speaker of the house of representatives and the
 21-13 lieutenant governor shall jointly designate a chair or,
 21-14 alternatively, designate two co-chairs, from among the committee
 21-15 membership, one of whom represents or resides in a first tier
 21-16 coastal county.
 21-17 (d) The committee shall:
 21-18 (1) examine alternative ways to provide insurance to
 21-19 the seacoast territory of this state through a quasi-governmental
 21-20 entity, including providing insurance coverage through a system or
 21-21 program in which insurers in this state provide insurance in the
 21-22 seacoast territory of this state in proportion to the percentage of
 21-23 insurance coverage provided in geographic areas of this state other
 21-24 than the seacoast territory;
 21-25 (2) study the residual markets for windstorm and hail
 21-26 insurance in other states to determine if those markets operate
 21-27 more efficiently and effectively than the residual market for
 21-28 windstorm and hail insurance coverage in this state;
 21-29 (3) recommend:
 21-30 (A) the appropriate scope of authority and
 21-31 responsibility for the entity to provide insurance to the seacoast
 21-32 territory of this state;
 21-33 (B) an organizational structure to exercise
 21-34 authority and responsibility over the provision of insurance to the
 21-35 seacoast territory of this state;
 21-36 (C) a timetable for implementation; and
 21-37 (D) specific amendments to state laws and rules
 21-38 that are necessary to implement the committee's recommendations
 21-39 under this subdivision; and
 21-40 (4) estimate funding requirements to implement the
 21-41 recommendations.
 21-42 (e) The committee may adopt rules necessary to conduct
 21-43 business under and implement this section.
 21-44 (f) Except as specifically provided by this section, the
 21-45 committee may operate in the same manner as a joint committee of the
 21-46 82nd Legislature.
 21-47 (g) Not later than December 1, 2012, the committee shall
 21-48 report to the governor and the legislature the recommendations made
 21-49 under this section.
 21-50 (h) This section expires June 1, 2013.
 21-51 SECTION 57. (a) The adjuster advisory board established
 21-52 under this section is composed of the following nine members
 21-53 appointed by the commissioner:
 21-54 (1) two public insurance adjusters;
 21-55 (2) two members who represent the general public;
 21-56 (3) two independent adjusters;
 21-57 (4) one adjuster who represents a domestic insurer
 21-58 authorized to engage in business in this state;
 21-59 (5) one adjuster who represents a foreign insurer
 21-60 authorized to engage in business in this state; and
 21-61 (6) one representative of the Independent Insurance
 21-62 Agents of Texas.
 21-63 (b) A member who represents the general public may not be:
 21-64 (1) an officer, director, or employee of:
 21-65 (A) an adjuster or adjusting company;
 21-66 (B) an insurance agent or agency;
 21-67 (C) an insurance broker;
 21-68 (D) an insurer; or
 21-69 (E) any other business entity regulated by the

22-1 department;

22-2 (2) a person required to register as a lobbyist under

22-3 Chapter 305, Government Code; or

22-4 (3) a person related within the second degree of

22-5 affinity or consanguinity to a person described by Subdivision (1)

22-6 or (2).

22-7 (c) The advisory board shall make recommendations to the

22-8 commissioner regarding:

22-9 (1) matters related to the licensing, testing, and

22-10 continuing education of licensed adjusters;

22-11 (2) matters related to claims handling, catastrophic

22-12 loss preparedness, ethical guidelines, and other professionally

22-13 relevant issues; and

22-14 (3) any other matter the commissioner submits to the

22-15 advisory board for a recommendation.

22-16 (d) A member of the advisory board serves without

22-17 compensation. If authorized by the commissioner, a member is

22-18 entitled to reimbursement for reasonable expenses incurred in

22-19 attending meetings of the advisory board.

22-20 (e) The advisory board is subject to Chapter 2110,

22-21 Government Code.

22-22 SECTION 58. This Act applies only to a Texas windstorm and

22-23 hail insurance policy, and a claim or dispute arising under a Texas

22-24 windstorm and hail insurance policy, delivered, issued for

22-25 delivery, or renewed by the Texas Windstorm Insurance Association

22-26 on or after the 30th day after the effective date of this Act. A

22-27 Texas windstorm and hail insurance policy, and a claim or dispute

22-28 arising under a Texas windstorm and hail insurance policy,

22-29 delivered, issued for delivery, or renewed by the Texas Windstorm

22-30 Insurance Association before the 30th day after the effective date

22-31 of this Act, are governed by the law in effect on the date the policy

22-32 was delivered, issued for delivery, or renewed, and the former law

22-33 is continued in effect for that purpose.

22-34 SECTION 59. The Texas Windstorm Insurance Association shall

22-35 amend the association's plan of operation to conform to the changes

22-36 in law made by this Act not later than January 1, 2012.

22-37 SECTION 60. Section 2210.605(c), Insurance Code, as amended

22-38 by this Act, and Section 2210.6136, Insurance Code, as added by this

22-39 Act, apply to the issuance and repayment of public securities

22-40 issued by the Texas Windstorm Insurance Association under Chapter

22-41 2210, Insurance Code, in response to an occurrence or series of

22-42 occurrences that takes place on or after the effective date of this

22-43 Act. The issuance and repayment of public securities issued by the

22-44 association under Chapter 2210, Insurance Code, before the

22-45 effective date of this Act is governed by the law as it existed

22-46 immediately before the effective date of this Act, and that law is

22-47 continued in effect for that purpose.

22-48 SECTION 61. This Act takes effect immediately if it

22-49 receives a vote of two-thirds of all the members elected to each

22-50 house, as provided by Section 39, Article III, Texas Constitution.

22-51 If this Act does not receive the vote necessary for immediate

22-52 effect, this Act takes effect on the 91st day after the last day of

22-53 the legislative session.

22-54 * * * * *